

Board of Directors Meeting
Board on Aging and Long Term Care
Conference Room 100
Madison, WI 53704
November 1, 2017

Chair James Surprise called the meeting to order at 9:00 am. It was noted that this meeting was properly noticed under the Open Meetings Notice law.

Members Present: James Surprise Dr. Dale Taylor Mike Brooks
Dr. Valerie Palarski Tanya Meyer
Barbara Bechtel

Members Excused: Eva Arnold

Staff Present: Heather Bruemmer Kellie Miller Vicki Buchholz
Kim Marheine Vicki Tiedeman Rachel Selking
Brandie Hanson Kelly Gochenaur Gail Wickman

Guests Present: **Representative Thomas Weatherston**, Chair of the Assembly
Committee on Aging and Long-Term Care

Cindy Ofstead, Department of Health Services (DHS), Aging Director,
Bureau of Aging and Disability Resources, Division of Public Health

Agenda: Approval of agenda as submitted M/S/C (Meyer/Bechtel)

Minutes: Minutes of the August 2, 2017, board meeting were approved as presented. M/S/C (Bechtel/Palarski)

Remarks by a Board Member: Dr. Dale Taylor

Dr. Taylor outlined a new form that was approved for Music and Memory in Music Therapy. The form can be used to record the playlists of people who are in advanced directives before the onset of dementia or brain disease. Dr. Taylor worked with several medical professionals to develop the form and to get the necessary approvals to add the document to the advanced care planning process.

Presentation: Update on Aging Issues and Long-Term Care by Representative Thomas Weatherston

Representative Weatherston noted that his goal as the Chair in the Committee on Aging and Long-Term Care was to be fiscally responsible for all consumers that needed care. He remarked that Wisconsin ranked in the top 3-4 states in the country regarding healthcare.

Representative Weatherston commented on a piece of legislation that had passed committee:

Regarding the bill to change the minimum hours of training to 75 (currently 120 hours) a Certified Nursing Assistant (CNA) would need to complete to become certified. The State of Wisconsin will change our standards to match the Federal standards and what our neighboring states have.

Representative Weatherston remarked that being on the Committee on Aging and Long-Term Care was very informative, he is learning a lot and is open to helping with corrective legislation, if needed.

Presentation: Updates from Cindy Ofstead, Aging Director, Bureau of Aging and Disability Resources

Ms. Molke reported on several updates from the Bureau of Aging and Disability Resources Aging Advisory Council:

Ms. Molke attended the Elder Abuse Conference and found out processes other states use to combat elder abuse.

There is a big push for standardized training Elder Abuse Responders at the state level, currently each county trains differently. Also, there is an effort at the national level to have standardized training.

Elder Abuse Responders are finding out that with trauma-informed response calls, it is usually not the first call. They are realizing that they need to address the whole array of problems with family members.

The Department of Health Services, Aging and Disability Resource section is creating a new unit: The Legal and Protective Services unit. This unit will have a supervisor who is dedicated solely to our programs.

The Department of Health Services, Aging and Disability Resource section has piloted a program that uses temporary Dementia Care Specialists that work with the ADRCs and tribes. Due to the new budget and additional funds these positions are now permanent employees.

The Aging Advisory Council has started working on the State Agency Plan and would like public input for the plan. The Council would like consumers to take an active role, make recommendations and be more empowered and engaged in putting together the new plan.

Volunteer Services Update, Ms. Miller, Volunteer Services Supervisor

Personnel updates: The Volunteer Ombudsman Program is fully staffed.

Ms. Miller reported on Work Updates:

The Volunteer Ombudsman Program VOP Initial Training (new class) Power-point, formal agenda and manual has been revised and the updates now include reference to authority credentials and follows the Federal Ombudsman Rule 45CFR 1324. Ms. Miller thanked Heather Bruemmer, Executive Director of the Board on Aging and the State Ombudsman and Christopher McElgunn, Counsel to the Board for input and support of the VOP training revision.

Recruitment efforts, which include exhibit booths, Radio/T.V. interviews with the Volunteer Coordinators, presentations, and media ads have been favorable so far in many regions. Interested people are signing up to be screened and attend classes. Upwards of 30 potential volunteer ombudsmen are on the waiting list for scheduled classes this year and early next year. Ms. Miller reported that the next training sessions are scheduled for November and December in Wausau, Milwaukee, Madison, Appleton and La Crosse.

The second edition of the Volunteer Voice (agency newsletter) has been published and distributed. The Volunteer Voice can be found on the agency's web-site. Ms. Miller thanked Mrs. Kathy Paul, Volunteer Ombudsman and Medigap Volunteer for her many hours of editing and layout assistance.

October is "Residents' Rights Month," an annual event designated by Consumer Voice to honor residents living in long-term care facilities. It is an opportunity to focus on and celebrate awareness of dignity, respect and the rights of each resident. The Federal Nursing Home Reform Law guarantees residents' rights and places a strong emphasis on individual dignity, choice and self-determination. The law also requires nursing homes to "promote and protect the rights of each resident." Residents' Rights Month is a time to raise awareness of these rights and celebrate residents.

Ms. Miller detailed the theme for this year's Residents' Rights Month, "It's All About Me: My Life, My Care, My Choices." It focuses on the respect and dignity of every resident. The theme highlights residents' rights to choose their own schedule and activities, communicate how and with whom they choose, be free from abuse and unsafe environments, and be treated as an individual with unique wants and needs. Residents' Rights Month is a time for staff, families, ombudsmen, residents and other advocates to focus on resident-directed care and emphasizing the self-determination, choice, and quality of life of each resident.

The Volunteer Ombudsman Program conducted Residents Rights in-services and invited all current and potential Volunteer Ombudsman to participate in the following eight areas in October: Wausau, Milwaukee, Appleton, Oshkosh, Madison, Sparta, Wisconsin Rapids, and Stevens Point.

October was the first Residents Rights in-services for the three new Volunteer Coordinators that work in the La Crosse region, the Stevens Point region and the Milwaukee region. Ms. Miller thanked all the Volunteer Ombudsmen and the Regional Ombudsmen for presenting the important information regarding Residents Rights.

Ms. Miller reported that now there are 79 active Volunteer Ombudsmen covering 86 nursing homes.

Ms. Miller thanked Mr. Christopher McElgunn, Counsel to the Board, for presenting to the Milwaukee Volunteer Ombudsman Program.

Ms. Miller thanked Mr. Thomas Haupt, Influenza Surveillance Coordinator/Research Scientist, Wisconsin Department of Health Services, Division of Public Health, for presenting to the Wausau, Milwaukee and La Crosse Volunteer Ombudsmen Programs.

Ms. Miller reports a successful staff in-service that was held in September. Guest speaker, Former Governor Marty Schreiber was very well received as he discussed his book, "My Two Elaine's." He shared his journey in caregiving for his wife who has dementia.

Legislative Updates, Attorney Christopher McElgunn, Counsel to the Board

Mr. McElgunn reported Legislative Updates:

A8432/SB34I: Hours of instructional program for nurse aids.

Conforms state law for instructional programs for nurse aides to the federal law requirements for Medicare and Medicaid. Specifically, the bill prohibits the Department of Health Services from requiring an instructional program to exceed the federal required minimum total training hours or minimum hours of supervised practical training, which is clinical experience, specified in the federal regulation. The current federal regulation requires no less than 75 hours of training with at least 16 of those hours' being supervised practical training.

This change in training hours still needs to go through the Senate. We will continue to make our point and meet with others to discuss our concerns.

AB 444/SB36t: Hospice staff transferring the controlled substances of deceased persons to drug disposal programs.

This bill authorizes a hospice worker to receive written authorization from personal representative or trustee of a deceased person's estate or trust, or an adult beneficiary of the estate or trust, to lawfully transfer a controlled substance to a drug disposal program that is authorized under state or federal law. Under the bill, the authorization is valid only if it satisfies certain conditions, including that the authorization describes the controlled substance with reasonable specificity and that the authorization and the controlled substance were obtained by the hospice worker without the payment of money or something else of value. Under current law, a person may not, and it is often a crime to, deliver, receive, or possess certain controlled substances unless the person is a licensed pharmacist or other licensed practitioner, has a valid prescription for the controlled substance, or lawfully possesses the controlled substance for transferring it to a drug disposal program that is authorized under state or federal law.

A8473/S8385: Therapeutic diets in certain long-term care facilities.

Amends the Department of Health Service's administrative code to allow attending physicians to delegate prescribing of a nursing home resident's therapeutic diet to a certified dietitian and prescribing of a modified diet of a resident of a facility serving persons with developmental

disabilities to a certified dietitian. Currently, the administrative code allows only physicians to order therapeutic diets in nursing homes and modified diets in facilities serving persons with developmental disabilities.

48596: Long -term care investment accounts and making appropriations.

Requires the Department of Health Services to establish a long-term care investment program that is administered and promoted by a manager for which investments are made by a manager, and that allows an account owner-an individual, a married couple, domestic partners, or a trust-to establish a long-term care investment account to cover long-term care costs. The program's functions of administration, promotion, and investment are performed by one manager or multiple managers performing any combination of the functions. The bill creates a procedure for the selection of a manager and the execution of a contract with that manager and establishes criteria on provisions to be included in the contract with a manager.

Under the bill, an account owner must meet certain criteria, including having attained the age of 18, except for persons designated by a trust, and being listed on the account application. An account owner may contribute to a long-term care investment account or may authorize another person to contribute.

The bill provides that any amount contributed to an account each year, up to 55,500, or \$8,500 for those over age 50, is exempt from taxation, as is any interest, dividends, or other gain that accrues in the account if such amounts are redeposited into the account. Amounts withdrawn from the account are also exempt from taxation if the withdrawal is for a qualified use. Beginning in 2018, these dollar amounts are indexed for inflation. Amounts contributed to an account that exceed the maximum amount that is eligible for the tax exemption may be carried forward to the next taxable year. Also under the bill, in calculating the itemized deductions credit, a claimant may not include unreimbursed medical expenses to the extent that such expenses were paid with amounts withdrawn from an account.

The bill also allows the account owner to select or change the beneficiary, and to transfer all or a portion of the account to another account. An account terminates upon the death of the individual account owners, and the proceeds of the account are distributed to a beneficiary, if named by the account owner. A beneficiary may retain the account as a long-term care investment account and becomes the account owner if the beneficiary meets the criteria to be an account owner.

An individual account owner is not eligible for Medical Assistance programs, including certain long-term care programs and Family Care, until the individual spends down the income and assets in the account to a level that would qualify for eligibility for the applicable program. For programs other than Medical Assistance and other programs that provide long-term care services, any person who is determining eligibility for a state or federal program must exclude from the determination any income from or assets accumulated in an account for the account owner, except this exclusion does not apply to eligibility for federal programs unless the federal government approves.

The bill specifies certain uses of account funds that are considered qualified uses. Before a use of account funds is considered a qualified use, a licensed or certified health care professional

must submit documentation to the manager that one of the events or conditions specified in the bill has occurred. Payment of a premium for long term care insurance that meets criteria set by the manager is a qualified use without documentation of one of the specified events or conditions.

S8312: Permitting certain individuals to make requests for medication for ending their lives and providing a criminal penalty.

This bill permits an individual who is of sound mind, is not incapacitated, is at least 18 years of age, is a resident of Wisconsin, and has a terminal disease to request voluntarily medication from his or her attending physician for ending the individual's life in a humane and dignified manner. The bill authorizes the individual's attending physician to issue a prescription for the medication if specified requirements are met. Further, the bill creates a statutory request for medication authorization form and requires that the Department of Health Services prepare and provide copies of the form for distribution to certain facilities, associations, and persons. The bill specifies that, if the requester is a resident of a nursing home or community-based residential facility, at least one of the witnesses to the written request for medication must be a residents' advocate designated by the Board on Aging and Long-Term Care.

We will continue to monitor this bill.

Medigap Helpline Update, Ms. Buchholz, Medigap Helpline Services Supervisor

Ms. Buchholz reported on Work Updates:

The Medigap Helpline Programs continues to be busy through 2017. As of September, we had uploaded 8267 client contacts to CMS. The helpline staff has participated in 63 outreach events around the state. Staff participated in the Professional Medicare Training's Webinar and Presentations in Madison and Milwaukee. This reached out to about 500 social workers, case managers, and benefit specialists who advocate for the persons we serve.

Staffing updates: A new Medigap Part D and Prescription Drug Helpline counselor will be starting November 13th, 2017. We are looking forward to being fully staffed!

Volunteer Program: The volunteer program in Milwaukee has established two contact sites with 3 volunteers. The Senior center in West Allis and the McGovern Senior Center in Milwaukee are hosting weekly sessions where the volunteers are available to distribute the programs review forms, assist with filling them out if need be, and will help explain the resulting planfinders if the beneficiary needs help. As this grows, volunteers who are interested in running actual planfinders will be trained to do this as well.

Thus far, we have had over 100 planfinders run with students who have volunteered their time at this agency. They are using the time to complete their volunteer requirements from the UW Pharmacy School. We have had returning students who continue to volunteer even though their hours have been met. Ongoing feedback is they really enjoy helping the program and they are learning good tools to help their patients when they become pharmacists themselves.

Trends:

With the Annual Enrollment Period in full force, some trends we have noted is that some Medicare Advantage plans have changed their service areas, so some persons have experienced a loss in their plan options. However, the numbers affected are small compared to years past. The copay structures have not changed dramatically with existing plans which leads to stability for the beneficiaries.

There have been changes in drug plans. Pharmacy changes can be concerning for beneficiaries so we continue to encourage completing a review so there would be no surprises.

We have had a “heads up” about incorrect copays listed in the Medicare Planfinder. We will rerun the planfinders which listed those plans as first/second choice so that the beneficiary doesn’t enroll into a plan which when January comes around will have higher than expected copays. However, we do caution all beneficiaries that the plans can change copays/formularies through the year so planfinders are only a guide.

Ombudsman Services Update, Ms. Marheine, Ombudsman Services Supervisor

Ms. Marheine reported on Work Project Updates:

Monitoring of Rules & Regulations

Revised Nursing Home Regulations: Ombudsmen continue to work with DQA and nursing home providers in meeting the Phase One requirements of the CMS- issued revised nursing home regulations, and preparing for Phase Two, effective November 28, 2017. Concerns continue to be noted regarding requirements around discharge notices, enacting some of the person-centered care provisions and emergency preparedness.

CNA Training Bill: Conversations continue with legislators and stakeholders such as the Alzheimer’s and Dementia Alliance, regarding the proposed reduction in CNA training hours. Residents and families have expressed concern with this proposed change, citing an already under-prepared workforce.

Program Data: Preparations are underway for the Ombudsman Program’s annual report to the Administration for Community Living, due January 31, 2018.

Attorney General’s Task Force on Elder Abuse Prevention: Agency staff will participate in the various committees of the AG’s task force, primarily those related to the interplay between law enforcement and victims’ services.

Education & Outreach: Ombudsmen recently participated in all-staff inservice, and have had a busy fall thus far providing Residents’ Rights inservices to the Volunteer Ombudsman Program, as well as to providers, in honor of October Residents’ Rights Month. Most ombudsmen will attend the FOCUS Conference, and Regional Ombudsman, Christy Daley will present at the

FOCUS Special Session with a DQA Director regarding balancing choice, rights and regulations when residents have diabetes.

Managed Long-Term Care: Staff has been participating in meetings gathered around the transitioning of Family Care and IRIS to Dane County, effective Feb 1, 2018. Efforts are currently underway to finalize the required materials to enable the hiring of two IRIS ombudsman positions approved through the Governor's final budget.

Nursing Home Updates: Twelve Immediate Jeopardy cites (as compared to 14 in the previous reporting period) have been noted since the August board meeting. This is reported to be at approximately the same rate as this same time a year ago. The most frequent complaints coming in to the Ombudsman program about nursing homes continue to be about involuntary discharges and lack of responsive staff.

Assisted Living Updates: Complaints about assisted living communities continue to mirror those for nursing homes: involuntary discharges and lack of responsive staff.

Closures and Relocations: Abrupt notices of closures of nursing homes and assisted living residences continue to be a concern under monitoring. There is currently one nursing home in closure, and several assisted living communities of varying sizes are either in the closure process or are discussing closure. DHS, DQA and BOALTC continue to monitor these, noting the stated reasons for closure as well as the homes' record of compliance. While many homes report staffing shortages to influence their decision, many also state low resident census and aging buildings being too expensive to update or maintain, to be impactful, particularly in very rural areas of the state.

Comments from the Public: No comments from the public were received.

Administrative Report: Ms. Bruemmer, Executive Director/State Ombudsman

Ms. Bruemmer reported:

Financial updates and Personnel:

Governor Scott Walker on Thursday, September 21st signed the two-year, \$76 billion budget. The IRIS Lead Ombudsman and IRIS Ombudsman positions were in the budget along with the updated 16.009 Board on Aging and Long Term Care State Statute. Thank you to Mr. McElgunn for his work on this with our leadership team.

Program updates:

The Agency continues to participate in the ongoing STAR Project and Ms. Tiedeman; our agency's "Change Agent" participates in all the trainings/meetings. The 2017-2019 Budget will be loaded into the STAR system in the next month.

With the approval of 16.009 Board on Aging and Long Term Care State Statute, the Executive Director (ED) will work with Ms. Marheine, Ms. Miller and Mr. McElgunn in reviewing the

Federal Ombudsman Rule. Due to the delay in the budget, the Administration of Community Living was informed and will work with us in the completion of our policies and procedures.

The ED meets with the Department of Health Services (DHS) - Office on Aging to review and discuss the Ombudsman regulations monthly. The Office on Aging is the contractor for our Older American Act dollars and has responsibilities within the regulations. The agency completed a checklist to be reviewed every four to six weeks between the ED and DHS.

The ED chairs the Long Term Care Advisory Council and the Council has one final meeting this year. Secretary Linda Seemeyer will be attending the November meeting to review the current charge and membership. She has requested the ED to maintain her role as the Chair of the Council and we meet regularly.

The ED continues to monitor as the Patient Care Ombudsman for one provider who is in Bankruptcy in the state and provides a written report to a Federal Judge every 60 days on the status of the Bankruptcy. Her priority is to make sure the consumers are receiving quality care and services and not being compromised by the bankruptcy.

The NORC of Chicago research project this Agency is currently working on is moving forward in a timely manner. We will be submitting data on our elder abuse casework as well as managed care to Project Director Kim Nguyen. The next steps in the research project will involve the redaction of our casework. Ms. Marheine is doing an exceptional job in gathering and analyzing the data.

Mr. McElgunn and the Executive Director will be attending the National Consumer Voice Conference in Washington DC November 6th-9th. Legislative visits with Congressional Offices will be occurring on Wednesday, November 8th. The ED will participate in the State Ombudsman meetings while in Washington, DC.

Chapter 50 recommendations were submitted to the Department of Health Services. Thank you Mr. LaDuke, Mr. McElgunn and Ms. Marheine for their input.

The Agency had Staff In-service September 20-21st and we were able to recognize the staff for their outstanding work and contributions.

October 3rd Ms. Marheine and the ED participated in the Caregiver SOAR (Success, Opportunity, Advancement, and Retention) project at the UW Oshkosh Campus.

October 9th, the ED participated in the Elder Abuse Task Force hosted by the Attorney General Brad Schimmel at the State Bar. She presented to the Task Force about the Ombudsman Program.

New Business: No new business was brought before the Board.

Next Meeting Date: February 28, 2018, Tanya Meyer will offer Remarks from a Board Member

Other future meeting dates are:
May 9, 2018

August 8, 2018
October 31, 2018

Adjournment: Meeting adjourned at 2:45 pm; M/S/C (Surprise/ Meyer)

Respectfully submitted,
Vicki Tiedeman Recorder